

TEXAS BOARD OF ARCHITECTURAL EXAMINERS
Minutes of November 15, 2018 Board Meeting
William P. Hobby Jr. Building, 333 Guadalupe Street
Tower III, Conference Room 102
Austin, TX 78701
9:00 a.m. until completion of business

AGENDA ITEMS

**1A.
Call to Order**

DESCRIPTIONS

Ms. Dockery called the meeting to order at 9:08 a.m.

**1B.
Roll Call**

Ms. Walker called the roll.

Present Board Members

Debra Dockery	Chair, Architect Member
Michael (Chad) Davis	Vice-Chair, Landscape Architect Member
Jennifer Walker	Secretary-Treasurer, Architect Member
Robert (Bob) Wetmore	Architect Member
Rosa G. Salazar	Registered Interior Designer
Joyce J. Smith	Public Member

**1C.
Absences**

Charles (Chuck) Anastos	Architect Member
Chase Bearden	Public Member
Fernando Trevino	Public Member

A MOTION WAS MADE AND SECONDED (Davis/Wetmore) TO APPROVE THE EXCUSED ABSENCES OF CHARLES (CHUCK) ANASTOS AND CHASE BEARDEN. THE MOTION PASSED UNANIMOUSLY.

**1D.
Determination of a
Quorum**

A quorum was present.

**1E.
Recognition of Guests**

Ms. Dockery acknowledged the following members of TBAE staff: Julie Hildebrand, Executive Director; Lance Brenton, General Counsel; Glenn Garry, Communications Manager; Glenda Best, Operations Manager; Christine Brister, Human Resources; Kenneth Liles, Finance Manager; Dale Dornfeld, IT Manager; Mike Alvarado, Registration Manager; Tony Whitt, Continuing Education Coordinator; Jackie Blackmore, License and Permit Specialist; Jessica Ramirez, License and Permit Specialist; Julio Martinez, Security Analyst; and Katherine Crain, Legal Assistant. The Managing Investigator, Jack Stamps, arrived at 9:30.

Additionally, the following guests were recognized: Jeri Morey, Architect from Corpus Christi; and Suzy Fields, Registered Interior Designer.

**1F.
Chair's Opening
Remarks**

Ms. Dockery thanked the Board and welcomed the guests. She began by stating that she wanted to recognize some of the staff for the care and compassion they show to agency registrants. Ms. Dockery explained the story of Dan Masullo, an exam candidate who had, after many years, completed the three requirements for registration as an architect: education, the architectural experience program, and passed his exams. Tragically, after all his hard work, he died in a car accident. At the time of his accident, he had not yet finalized his registration. She complimented the registration staff and the Communications Director for reaching out to the Texas Society of Architects in order to have Mr. Masullo's wall certificate and license awarded to his family at the New Architect Convocation in Fort Worth recently. Ms. Dockery described the event as a very moving ceremony. Two of Mr. Masullo's brothers were there, and one of them spoke very movingly about his brother and how proud they were that after so many years he had realized his dream to become a licensed architect. Following this speech, the certificate was presented to the brothers and the entire audience gave a standing ovation. Ms. Dockery commended the Board staff for recognizing the importance of honoring Mr. Masullo, for seeing that situation through and caring enough to make it happen. She reiterated her appreciation for the care and compassion the staff shows to the Board and all the registrants.

Ms. Dockery welcomed the new Board members and said that she was glad they were on the Board. She stated that they would have an opportunity to introduce themselves after Public Comment.

**1G.
Public Comments**

Ms. Dockery said that there were two individuals that signed up for Public Comment. First, Jeri Morey addressed the Board.

Ms. Morey stated that she had written a letter to the Board following Chad Davis's suggestion and asked if the Board had an estimate on when she would get a response.

Mr. Brenton stated that he had not seen a letter and inquired when she sent it. She replied that she sent it months ago, but she could resend it.

Next, Ms. Dockery invited Suzy Fields to offer her public comment.

Ms. Fields had a disciplinary case before the Board on this date. She shared a short history of her education and work experience as a registered interior designer. She stated that she was at the Board meeting because she did not complete the continuing education hours that are required under the Board rules. She described her efforts to make up the hours after she was audited and stated that she had adopted internal controls to remind her to complete CE as required. She accepted full responsibility for her error. She stated that it was an oversight and she

hopes the Board can resolve this matter so she can continue her profession in interior design.

2.
Introduction of New
Board Members

Rosa G. Salazar, Registered Interior Designer

Ms. Salazar stated that she had been doing design work for about 15 years and currently lives in Lubbock, Texas. She said she graduated from Texas Tech University. Currently, she works for a small architectural group in Lubbock, where her practice focuses on healthcare and corporate projects. She said she was very pleased to have joined the Board.

Joyce J. Smith, Public Member

Ms. Smith stated that she was happy to be on the Board and looks forward to working on behalf of the State of Texas. She said that she is originally from North Carolina, graduated from North Carolina State and she is a Certified Public Accountant. Previously, she was a partner in a large local firm in Austin, Atchley and Associates. She continues to be a licensed as a CPA. Though she does enjoy traveling and not having to do a lot of work, she does a few tax returns with no fee, mainly for her family. She looks forward to contributing to the Board.

Ms. Dockery welcomed the new Board members, and each of the remaining Board members provided a short introduction to the new members.

3.
Approval of August 21,
2018 Board Meeting
Minutes

A MOTION WAS MADE AND SECONDED (Davis/Walker) TO APPROVE THE AUGUST 21, 2018 BOARD MEETING MINUTES. THE MOTION PASSED UNANIMOUSLY. (Ms. Smith and Ms. Salazar abstained from voting as they were not at the August meeting.)

4.
Executive Director's
Report

Ms. Dockery invited Ms. Hildebrand to deliver the Executive Director's report.

4A.
Summary of Executive
Accomplishments

Ms. Hildebrand provided a report and explanation of Executive accomplishments as summarized on page 20 of the notebook.

Ms. Hildebrand continued by discussing the summary of Registration Department accomplishments, described on pages 21 and 22 of the Board materials. She emphasized the continued growth of active registrants as the most notable item in the summary. She also noted that, although the numbers have not yet been incorporated into the summary on page 22, registrant numbers have continued to increase in September and October.

Ms. Hildebrand continued by providing a report and explanation of the enforcement accomplishments as summarized on pages 23 and 24 of the notebook.

Ms. Dockery asked Ms. Hildebrand to identify the number of new registrants for each profession in future reports. Ms. Dockery remarked on the continued growth of new registrants, and that it would appear that the Board will soon have over 19,000 total active registrants.

**4B.
Operating
Budget/Scholarship
Fund: Presentation on
4th Quarter Fiscal Year
2018
Expenditures/Revenues**

Ms. Hildebrand discussed the final Fiscal Year 2018 revenues and expenditures as presented on page 25 of the Board materials. Ms. Hildebrand noted that the continued high growth in registration numbers had again resulted in higher revenues, and that interest was higher than expected, as previously discussed with the Board. To provide context with the adopted 2019 budget, Ms. Hildebrand noted that the Board has projected \$3,049,220 in FY 2019 revenues, which is more than the budgeted projection for FY 2018 (\$3,021,330) but less than what was actually collected (\$3,140,258).

Ms. Hildebrand also shared that she had looked at the actual revenues for September and October FY 2019, and that those numbers were higher than what had been received in FY 2018. Once again, it could be that the Board will experience higher than expected growth in registrations and revenues.

Ms. Smith asked if the 2018 budget was available. Ms. Hildebrand explained that, normally, she presents information to the Board on the most recently completed quarter. Since the first quarter had not yet been completed, she had not included a report on actual 2019 revenues and expenditures but would have that information at the next Board meeting. She also stated that she will provide the most up to date information to Board members on request.

Ms. Dockery clarified that the Board had adopted the FY 2019 budget at the August Board meeting and that that information is on the Board's website in the Board materials. Ms. Hildebrand stated she would send a copy to Ms. Smith.

Other notable items discussed by Ms. Hildebrand regarding the final report on the FY 2018 budget included the higher than expected expenditures for professional fees and services (due to required reimbursements for audits that were undertaken by third party agencies); lower than expected costs for Board travel (due to Board members' relative proximity to Austin and funding of trips by the national council organizations); the financing of agency training (the funding of which was split between FY 2018 and FY 2019); an increase in costs over projections for IT upgrades (following a decision to incur these costs in 2018 instead of 2019 due to better than expected revenues); and a general effort in the future to really tighten the budget down and eliminate unnecessary padding.

Ms. Hildebrand also updated the Board on temperature control problems in the server room, which have cost the agency money for previous repair efforts as well as time lost due to servers shutting down. Ms. Hildebrand stated that this is an item that the agency may need to fund out of the fund balance. This would be consistent with the Board's adopted policies. She stated that she would keep the Board apprised of further developments.

Ms. Hildebrand provided a report and explanation of the final FY 2018 budget for the Scholarship Fund, as contained on page 26 of the Board materials. Ms. Hildebrand and Ms. Dockery provided an explanation of the scholarship fund program and its history to the new members.

Mr. Davis added that the fund supports scholarships for architect applicants, and is funded by fees paid by registered architects, not landscape architects or registered interior designers.

Ms. Salazar inquired as to whether a scholarship program would be possible for interior designers. Ms. Hildebrand explained that it would require a change to the statutes by the legislature.

**4C.
Report on the Annual
Financial Report (AFR)**

Ms. Hildebrand provided a report and explanation of Annual Financial Report included on page 27 of the Board materials. She stated that this document is submitted every year and reviewed by the Comptroller.

Mr. Davis emphasized for the new Board members that the agency had gone through three audits last year so he felt confident that it had been well-vetted.

**4D.
Report on Training and
On-Boarding of New
Board Members**

Ms. Hildebrand provided an overview of the orientation that the new Board members recently attended. Both Ms. Smith and Ms. Salazar commented that they thought the orientation and training were great and they both learned a lot about the agency.

**4E.
Report on Conferences
and Meetings**

Ms. Hildebrand then provided an update to the Board on conferences and meetings.

Last September, Mr. Davis and Ms. Hildebrand attended the CLARB annual meeting. One topic of note was CLARB's focus on "frictionless licensing," which describes efforts to eliminate procedures and requirements for licensing that offer low return on the protection of the public, but impose high barriers.

Mr. Davis stated there was much discussion relating to various efforts to change the licensing laws in individual states. One trend that has been

observed is significant pushback against outright deregulation, with an emphasis instead on mobility of licensure.

Ms. Hildebrand then discussed the CIDQ meeting and shared her takeaways from a presentation that was given by Tara Koslov, an official from the Federal Trade Commission, the federal agency that helps to enforce antitrust laws. She was the staff member that was responsible for the FTC's report on mobility of licensure, so it was good to hear her presentation on a topic which is an important consideration for this Board. Ms. Hildebrand also described a presentation which cited the potential benefits of licensure. This presentation focused on a Harvard study which showed that for minorities and women especially, licensure schemes tend to even the playing field and decrease biases in hiring practices. This is because licensure requirements can be viewed objective measurements of basic competence and that a license holder is able to show parity with other license holders in a way that may overcome bias.

Ms. Hildebrand stated that in September, Steve Ramirez filled in for Jack Stamps, and made a presentation to the Lower Rio Grande Valley AIA Conference. She said that Mr. Ramirez had done a great job and that she welcomes the training opportunity and increase in the capability of agency staff.

Mike Alvarado and Jackie Blackmore attended the NCARB Licensing Advisors' Retreat in Santa Monica, CA. Ms. Hildebrand explained that the retreat provided a practical exposure to what is happening at NCARB and focused on how licensing advisors can help licensure candidates get through the process.

Ms. Hildebrand and Ms. Dockery attended the NCARB Member Board Chair and Member Board Executives Summit. Ms. Hildebrand explained that NCARB is trying to focus on new ways to support state boards through initiatives like the development of software solutions. Ms. Hildebrand also enjoyed a presentation to MBEs by a local architect, who described her day-to-day work activities. Ms. Hildebrand said that this was a valuable opportunity for non-architects to put themselves in the shoes of a registrant and consider how regulation interacts with their work.

Ms. Dockery shared her observations from talking with Board members from other jurisdictions. She stated that one takeaway is that the Board fortunate to have avoided some of the problems of other Boards. In some cases, this includes refusal by legislatures to provide funding for Boards to attend meetings to conduct Board business and maximum fines as low as \$500, which negatively impacts those Boards' ability to provide meaningful oversight and regulation.

Ms. Hildebrand provided an update of TBAE's attendance at the TxA Annual Meeting. Ms. Hildebrand said that she was unable to attend the meeting because it conflicted with the CIDQ Conference. However, Mike Alvarado and Glenn Garry did attend. While there, they visited UT Arlington, where they met with the AIA Student Chapter and presented to students. They also made three presentations to TxA conference attendees, in addition to providing outreach at the TBAE booth.

The Board took a break at 10:15 a.m. and reconvened at 10:30 a.m.

**5.
Report on the 86th
Legislative Session**

Ms. Hildebrand directed the Board to page 47, which includes basic information about the upcoming legislative session and discussed her responsibilities during the session.

Mr. Davis commended Ms. Hildebrand for her calm leadership during the most recent legislative session. Drawing upon his experience as a Board member with previous legislative affairs responsibilities for ASLA, he stated that it was important for the agency, as well as other stakeholders, to remain levelheaded and to focus on providing useful information to legislators during the session.

Ms. Hildebrand assured the Board that she would be sharing legislative items with the Board members through monthly emails on bills, including updates on agencies going through Sunset hearings and SDSI agencies.

**6.
Trend Analysis
Presentation on Agency
Performance and
Operations**

Ms. Hildebrand discussed highlights from the Annual Report on Trends for Fiscal Year 2018, included in the Board materials starting on page 48.

Ms. Hildebrand explained that the trend report is a visual interpretation of some of the data the agency is required to report as part of its status as an SDSI agency.

Ms. Hildebrand directed the Board to pages 49-51 which includes charts documenting the number of registrants broken down by profession and status over the years. She was happy to report that all three professions had seen growth in FY 2018.

Ms. Dockery requested that, in the future, numbers for new registrants be broken down between those who gained eligibility by reciprocity and examination.

Mr. Davis suggested that the agency conduct a survey to find out which firms are small businesses versus large businesses, so the Board members will have those statistics in case they are requested to testify in front of the legislature in the upcoming session. He felt that it was important for the legislature to have a good picture of the number of small businesses

involved in our professions, since this is an issue that is of importance to legislators.

Ms. Hildebrand directed the Board to page 54 of the Board materials, which includes administrative information on revenues, salaries, and other expenditures. She highlighted the high number of communication impressions for 2018. Ms. Hildebrand explained agency personnel are increasing their presentations across the state, and that when staff do travel, they try to schedule as many presentations as possible, rather than just one per visit.

Finally, Ms. Hildebrand directed the Board members to page 55 of the Board materials and discussed the highlights of data on investigations and enforcement. She stated that the agency has received more complaints, many of which are cases that have been referred by TDLR. The number of these cases has helped to decrease the number of days to case resolution, because they are generally less complicated cases that do not require a lot of document collection.

**7.
Enforcement Cases
Review and possibly
adopt ED's
recommendation in the
following enforcement
cases:**

Review and possibly adopt Executive Director's recommendation in the following enforcement cases:

**7A.
Non-Registrant Cases**

Garcia, Mario T. (#296-18N) – Mr. Brenton stated that the Respondent had not yet returned the signed Notice of Violation, and therefore asked that the item be removed from the agenda. No action was taken on this matter.

Vu, Anthony (#066-16N)

Mr. Brenton provided a summary of this matter as described on pages 58 and 59 of the Board materials.

A MOTION WAS MADE AND SECONDED (Wetmore/Smith) TO ENTER AN ORDER WHICH ADOPTS THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ADMINISTRATIVE PENALTY OF \$11,000 AS SET FORTH IN THE REVISED REPORT AND NOTICE OF VIOLATION DATED OCTOBER 17, 2018.

Mr. Davis asked, when the Board has a case in which a non-registrant has practiced architecture, or used a seal indicating that services were provided by a registered architect, whether the agency reports these matters to building owners. Mr. Stamps answered that staff does not always do so. Mr. Davis stated that it would be worthwhile for staff to

inform building owners of such cases, to alert them that they may not have received the services which they had been expecting.

Ms. Hildebrand stated that she would discuss this issue with staff and determine when such notifications would be helpful, when they might be sent out, etc.

Ms. Dockery asked whether this case was turned over to the District Attorney in the relevant jurisdiction, since this case involved the use of a seal without permission.

Mr. Stamps stated that he had not done so. He noted that while the agency had had success in reporting John Hamilton to Tarrant County previously, that was the first time that a D.A. had accepted a case referred by the Board. Mr. Stamps surmised that this may have been due to the extent of Mr. Hamilton's violations, as well as the fact that he continued to engage in those behaviors even after the agency had opened an investigation. However, with all other cases, the Board had had zero success in convincing prosecutors to take on cases referred by TBAE.

Mr. Brenton stated that he would welcome further guidance from the Board on this matter. He suggested that referral of a matter to a prosecutor before the Board had taken action in a case could make it more difficult for the agency to take administrative action, because a Respondent may refuse to cooperate or participate in the case. On the other hand, this risk should be balanced against the benefit to the public safety of referring a case to prosecutors.

Ms. Hildebrand suggested that this issue could be brought before the Board at a future meeting. Ms. Dockery stated that she was curious to know what the Board's duty is if it has knowledge of potential criminal charges, and she would welcome any guidance from staff.

Ms. Dockery called for the vote.

THE MOTION PASSED UNANIMOUSLY.

7B.
TDLR Cases

Goelzer, Matthew (#404-18A)

Mr. Brenton provided a summary of this matter as described on page 60 of the Board materials.

A MOTION WAS MADE AND SECONDED (Davis/Wetmore) TO ENTER AN ORDER WHICH ADOPTS THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ADMINISTRATIVE PENALTY OF \$1,000 AS SET FORTH IN THE REPORT AND NOTICE OF VIOLATION DATED AUGUST 30, 2018.

Ms. Smith noted that this was a case that followed a warning. She asked how the Board received complaints, and whether the Board ever actively monitored the practice of individuals who have previously violated the laws.

Mr. Brenton stated that, for TDLR cases, regardless of whether there had been a previous violation, nearly all complaints are received directly from TDLR. He also stated that practice monitoring is not generally imposed for violations of TDLR requirements, but that in some cases for more serious violations, the Board has imposed probated suspensions against registrants in which staff actively monitors a registrant's practice.

Ms. Dockery called for the vote.

THE MOTION PASSED UNANIMOUSLY.

**7C.
CE Cases**

The Board considered and voted upon the continuing education cases as a group, with the exception of one matter which required recusal.

A MOTION WAS MADE AND SECONDED (Davis/Walker) TO ENTER ORDERS WHICH ADOPT THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ADMINISTRATIVE PENALTIES AS SET FORTH IN THE REPORTS AND NOTICES OF VIOLATION FOR EACH OF THE FOLLOWING CONTINUING EDUCATION CASES:

Fields, Suzy M. (#429-18I)
Gustin, Wesley (#417-18A)
Hagmann, Gregory G. (#459-18A)
Kohutek, Robert C. (#298-18A)
Massouh, Craig G. (#421-18A)
Munoz, Sylvia (#476-18I)
Slavik, William B. (#189-18A)

THE MOTION PASSED UNANIMOUSLY.

The Board then considered Case Number #428-18A, concerning David R. German.

Mr. Davis recused himself from consideration of this matter.

A MOTION WAS MADE AND SECONDED (Walker/Wetmore) TO ENTER AN ORDER WHICH ADOPTS THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ADMINISTRATIVE PENALTY OF \$500 AS SET FORTH IN THE REPORT AND NOTICE OF VIOLATION DATED AUGUST 30, 2018. THE MOTION PASSED UNANIMOUSLY.

**8.
Board Committee
Assignments**

Ms. Dockery stated that the next item was the establishment of committees for next year. She asked Jennifer Walker to Chair the Rules Committee and appointed Joyce Smith and Fernando Trevino to serve on the Rules Committee.

In addition, she appointed Rosa Salazar and Chase Bearden to serve with Bob Wetmore as Chair on the Legislative Committee.

**9.
Upcoming Board
Meetings**

Ms. Dockery identified the following dates for the 2019 Board meetings:

February 21, 2019
June 13, 2019
August 15, 2019
November 19, 2019

**10.
Chair's Closing Remarks**

The Chair had no final remarks.

**11.
Adjournment**

A MOTION WAS MADE AND SECONDED (Walker/Davis) TO ADJOURN THE MEETING AT 11:40 A.M. THE MOTION PASSED UNANIMOUSLY.

APPROVED BY THE BOARD:



DEBRA J. DOCKERY, FAIA
Chair, TEXAS BOARD OF ARCHITECTURAL EXAMINERS